

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Anderson	Team: Squad #11	CCRB Case #: 201803893	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/16/2018 1:38 PM	Location of Incident: 391 Jay Street	18 Mo. SOL 11/16/2019	Precinct: 84		
Date/Time CV Reported Thu, 05/17/2018 10:29 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/17/2018 10:29 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Sandberg	14067	947456	084 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Paulton Chan	15546	955807	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Sandberg	Abuse: Police Officer Daniel Sandberg threatened to arrest § 87(2)(b)	
B.POM Daniel Sandberg	Abuse: Police Officer Daniel Sandberg searched § 87(2)(b)	
C.POM Daniel Sandberg	Force: Police Officer Daniel Sandberg used a chokehold against § 87(2)(b)	
D.POM Daniel Sandberg	Force: Police Officer Daniel Sandberg used physical force against § 87(2)(b)	
E.POM Daniel Sandberg	Discourtesy: Police Officer Daniel Sandberg spoke discourteously to § 87(2)(b)	
F.POM Daniel Sandberg	Abuse: Police Officer Daniel Sandberg threatened § 87(2)(b) with the use of force.	

### Case Summary

On May 17, 2018, § 87(2)(b) called the CCRB to file this complaint.

On May 16, 2018, at approximately 1:38 p.m., § 87(2)(b) waited for her husband inside a Subway restaurant, located at 391 Jay Street in Brooklyn. The restaurant's manager approached § 87(2)(b) and informed her that she could not sit where she was without placing an order. § 87(2)(b) informed the manager that she was waiting for her husband. The manager called security guards, who called the police. Multiple officers, including PO Daniel Sandberg and PO Paulton Chan, both from the 84th Precinct, arrived. PO Sandberg instructed § 87(2)(b) to leave the restaurant, which she refused to do. PO Sandberg informed her that if she did not do so, she would be arrested and charged with trespass (**Allegation A- Abuse of Authority: Threat of arrest**, § 87(2)(g)).

PO Sandberg took § 87(2)(b) handbag, walked away from her with it, and visually inspected its contents (**Allegation B- Abuse of Authority: Search (of person)**, § 87(2)(g)). After this, PO Sandberg returned to where § 87(2)(b) sat, spoke with her about whether or not she would be arrested, and handcuffed one of her wrists. PO Sandberg pressed his hand against § 87(2)(b) shoulder, and she told him not to push her neck (**Allegation C- Force: Chokehold**, § 87(2)(g)). PO Sandberg pulled § 87(2)(b) from her seat towards the restaurant entrance (**Allegation D- Force: Physical force**, § 87(2)(g)) and said, "I'm going to rip your goddamn fucking hand off," among other profanities (**Allegation E- Discourtesy: Word**, § 87(2)(g)). (**Allegation F- Abuse of Authority: Threat of force**, § 87(2)(g)).

PO Sandberg dragged § 87(2)(b) out of the store (**within Allegation D**). § 87(2)(b) attempted to bite PO Sandberg and PO Chan. PO Sandberg said, "I'm inches away from breaking your fucking nose" (**within Allegations E and F**). An ambulance was called to the location, and § 87(2)(b) was transported to a hospital. She was not arrested as a result of the incident and was issued a summons for disorderly conduct.

Body-Worn Camera (BWC) footage and surveillance footage from the restaurant were recovered in this case. The original footage is attached to IA numbers 6 and 21 through 27.

### Findings and Recommendations

#### Allegation (A) Abuse of Authority: Police Officer Daniel Sandberg threatened to arrest

§ 87(2)(b) provided a telephone statement to the CCRB, in which she stated that the Subway restaurant's manager informed her that she could not sit where she did without placing an order. The manager summoned security guards, who subsequently called the police. PO Sandberg and PO Chan arrived and instructed her to exit the restaurant. The officers asked what she intended to order, and she stated that she was waiting for her husband to arrive and did not know.

PO Sandberg stated (Board Review 01) that he and PO Chan responded to a call regarding a disorderly individual, § 87(2)(b) who refused to exit a Subway restaurant. After arriving at the location, PO Sandberg spoke with the manager, who informed him that § 87(2)(b) had been inside the location for over 90 minutes, had not purchased anything, and had refused to yield her seat to other customers. The manager requested multiple times that § 87(2)(b) exit the restaurant, which she refused to do, stating that she was waiting for her

husband. PO Sandberg asked the manager what he wished for the officers to do, and he told PO Sandberg that he wished for § 87(2)(b) to leave and that she was welcome to return when her husband arrived.

PO Sandberg spoke with § 87(2)(b) for approximately five to ten minutes, during which time he requested that she exit the restaurant, which she verbally refused to do five or more times. PO Sandberg informed § 87(2)(b) that she would be arrested if she did not exit the restaurant and suggested that she purchase something such that she may remain inside it.

A portion of the BWC footage recorded by PO Sandberg, embedded below, captures his conversation with a Subway employee. The employee informs PO Sandberg that § 87(2)(b) entered the restaurant at approximately 1:00 p.m. and did not purchase any food. Customers requested that she relinquish her seat, which she refused to do, stating that she was waiting for her husband. The customers complained to the employee, who told PO Sandberg, "Stay outside and, you know, when your husband comes, inside is okay."



201803893\_20181115\_1648\_DM.mp4

A person is guilty of trespass when he knowingly enters or remains unlawfully in premises open to the public in defiance of a lawful order not to enter or remain, personally communicated to him by the premises' owner or other authorized person. NYS Penal Law, Part 3, Title I, Article 140, Section 140.05 (Board Review 02).

Given the video footage's corroboration of PO Sandberg's account that he and § 87(2)(b) were both informed by an employee of a company operating in private property that the desired outcome of the incident was for § 87(2)(b) to exit the restaurant, the investigation credits that, as per NYS Penal Law, § 87(2)(b) was guilty of trespass. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### **Allegation (B) Abuse of Authority: Police Officer Daniel Sandberg searched § 87(2)(b)**

§ 87(2)(b) stated that PO Chan "snatched" and searched her handbag after she was "squeezed" against a wall and handcuffed and prior to her being forcibly removed from the restaurant.

Although § 87(2)(b) pleaded this allegation against PO Chan, surveillance footage of the incident depicts the entirety of PO Chan's presence within the restaurant. During this period, his arms and body movements are clearly visible for all but several seconds. Cross-referencing this period of him being out of frame with the BWC footage he recorded indicates that he did not perform a search during this period. Furthermore, PO Sandberg is visible in the surveillance footage removing § 87(2)(b) handbag from her, inspecting its interior, and then handing it to members of the restaurant's private security team, who maintain possession of it until § 87(2)(b) is removed from the restaurant. Allegation C is therefore being pleaded against PO Sandberg.

PO Sandberg stated that after speaking with § 87(2)(b) who was non-compliant with instructions to exit the restaurant, he took her handbag from her and walked towards the restaurant exit in a tactic he frequently uses and was designed to coax her into following her

property. PO Sandberg initially denied conducting a search of § 87(2)(b) handbag. When presented with the surveillance footage, a portion of which is embedded below, he stated that § 87(2)(b) had inquired about the location of her phone and that he may have looked into her bag to determine if her phone was inside it. PO Sandberg stated that there was no other reason to look inside the handbag. After returning to § 87(2)(b) handcuffing her, and removing her from the restaurant, PO Sandberg removed the handcuff from her because he did not intend to arrest her.

The portions of video footage below depict PO Sandberg holding § 87(2)(b) handbag, moving its handles away from its center such that its opening would widen, and looking directly downwards towards the handbag. After this, PO Sandberg returned to § 87(2)(b) handed the handbag to a security guard, and spoke with her for an additional one minute. In this period, he provides her, multiple times, the ultimatum of handcuffing her if she does not exit the restaurant, and stated that he does not wish to arrest her. After she does not do so, PO Sandberg handcuffs one of her wrists and instructs her to put her hands behind her back.

An officer may not conduct a search incident to arrest until either an arrest has been made or the officer has already formulated the intent to effectuate an arrest. People v. Mangum, 125 A.D.3d 401 (2015) (Board Review 03).

Given that the video footage depicts PO Sandberg performs actions indicative of inspecting the interior of § 87(2)(b) handbag and, when presented with this footage, PO Sandberg provided a justification for why he may have done so, § 87(2)(g) PO Sandberg seized § 87(2)(b) handbag, a maneuver he described as having the intended effect of coaxing a civilian into following their property. Despite § 87(2)(b) already being guilty of trespass, the search also occurred prior to PO Sandberg speaking again with § 87(2)(b) providing her with additional opportunities to cease her trespass, explicitly informing her that he did not wish to arrest her, ultimately handcuffing her after this, and removing the handcuffs from her because he did not intend to arrest her.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation (C) Force: Police Officer Daniel Sandberg used a chokehold against § 87(2)(b)**

§ 87(2)(b) stated that while outside the restaurant and on the ground, PO Sandberg choked her and squeezed her neck.

PO Sandberg denied using a chokehold against § 87(2)(b) and stated that had he made any contact with § 87(2)(b) neck at any point during the incident, it may have occurred at the time inside the restaurant that he pulled § 87(2)(b) to her feet and fell with her against a snack stand, but he did not recall this occurring.

The entirety of this incident was captured within the BWC available. The portions of BWC footage embedded below depict the only aspects of the incident involving PO Sandberg's physical contact with the vicinity of § 87(2)(b) neck. § 87(2)(b) told PO Sandberg inside the restaurant, "Don't push my neck," to which he responded, "I'm not pushing your

neck.” After being removed from the restaurant and sitting on the ground, PO Sandberg and PO Chan removed § 87(2)(b) handcuffs. During this process, PO Sandberg is seen pressing his left open palm downwards onto § 87(2)(b) right shoulder for several seconds. Before removing his hand from this area, PO Sandberg cannot be seen altering the angle of either his arm or hand. § 87(2)(b) does not say anything during or after this.



201803893\_20181115\_1649\_DM.mp4



AllgtnD1.mp4



AllgtnD2.mp4

Video footage of the incident indicates that PO Sandberg, using his open left palm, made contact with § 87(2)(b) right shoulder on two different occasions. On the first occasion, inside the restaurant, the right-hand boundary of PO Sandberg’s hand is parallel with § 87(2)(b) neck. On the second occasion, PO Sandberg’s hand is again parallel to § 87(2)(b) neck, and his arm is perpendicular to her torso, suggesting that any force applied is done so downwards. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Force: Police Officer Daniel Sandberg used physical force against § 87(2)(b)**

**Allegation (E) Discourtesy: Police Officer Daniel Sandberg spoke discourteously to**

§ 87(2)(b)

**Allegation (F) Abuse of Authority: Police Officer Daniel Sandberg threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) stated that she was pushed against snacks inside the restaurant and then dragged outside of it, where PO Sandberg threatened to punch her and “break” her face.

PO Sandberg stated that after § 87(2)(b) repeatedly refused to exit the restaurant and he handcuffed her left wrist, he grabbed hold of the unattached handcuff, took hold of her left hand in a “handshake” fashion, and pulled her towards him. PO Sandberg encountered difficulty because, he thought, § 87(2)(b) had allowed her body to become “dead weight.” PO Sandberg brought § 87(2)(b) to her feet, and she “wrestled” with him, causing them to strike a display rack of snacks. PO Sandberg did not think that he threatened to break § 87(2)(b) arm but may have warned her that her resistance could result in such an injury.

When presented with the BWC footage he recorded, PO Sandberg stated that his statement of, “Get the fuck out of this goddamn store before I rip your goddamn fucking hand off” was his attempt to gain § 87(2)(b) compliance in exiting the store and ceasing her physical resistance. As PO Sandberg and § 87(2)(b) neared the restaurant’s entry door, she fell to the ground. PO Sandberg informed her that she obstructed foot traffic into and out of the store and instructed her to stand up, which she verbally refused to do. PO Sandberg dragged her out of the restaurant and stopped on the sidewalk outside of it. § 87(2)(b) did not resist or facilitate this process.

As PO Sandberg attempted to remove the handcuffs from § 87(2)(b) she attempted kick him and attempted to bite both him and PO Chan. In response, PO Sandberg “might have”



told § 87(2)(b) that he would punch her in the face if she bit him and that he was “inches from breaking [her] fucking nose.” PO Sandberg said this in an attempt to have her cease her attempts to bite him. PO Sandberg placed his hand on § 87(2)(b) forehead to prevent her from biting the officers and did nothing else to achieve this.

Portions of the BWC footage PO Sandberg recorded, embedded below, depict PO Sandberg pulling § 87(2)(b) to her feet, saying, “I’m gonna break your fucking arm. I’m fucking sick of this. Get the fuck out of the goddamn store before I rip your goddamn fucking hand off.” PO Sandberg pulls § 87(2)(b) to the store entry door, where she falls to the ground. PO Sandberg instructs her, “Let’s go,” and she replies, “I’m not moving.” PO Sandberg drags her out of the store several feet, where she opens her mouth and moves her face towards PO Sandberg’s arm. PO Sandberg says, “You bite me, I’m gonna punch you in the face. I’m trying to get my cuffs off you.” § 87(2)(b) opens her mouth and moves her face towards PO Chan, who says, “Stop it.” PO Sandberg presses § 87(2)(b) face backwards with his palm and says, “Stop fucking biting us. You’re being recorded, so you can do whatever the fuck you wanna do. I’m inches away from breaking your fucking nose.”

An officer must use no more than the force necessary to gain compliance or control. NYPD Patrol Guide, Section 221-01 (Board Review 04). An officer must be respectful and courteous when interacting with members of the public. NYPD Patrol Guide, Section 203-09 (Board Review 05). A Deputy Commissioner of Trials (DCT) judge has found that profane remarks made during stressful situations or while an officer is trying to get a chaotic situation under control are not misconduct. NYPD Department Advocate Office DCT, Number 2017-17005 (Board Review 08).

The statements of § 87(2)(b) and PO Sandberg and the video footage in this case are all corroborative of PO Sandberg’s use of force against, threat of use of force against, and use of profanity towards § 87(2)(b). Given that § 87(2)(b) was guilty of trespass, repeatedly verbally refused to exit the restaurant, and physically resisted her removal from the location by PO Sandberg, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Within the numerous instances of threats and profanity used by PO Sandberg, the investigation credits that in some instances, such as that of his threat to punch § 87(2)(b) if she bit him, § 87(2)(g)

§ 87(2)(g)

However, by viewing his profanity, including at least seven instances of forms of “fuck,” and threats in totality, particularly in his threat to rip off § 87(2)(b) hand and break her nose, it is apparent that PO Sandberg both only introduced profanity to his language when his threats became hyperbolic in nature and used profanity immediately after, not prior to, successfully taking physical actions to control § 87(2)(b) movements.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 06).
- PO Sandberg has been a member-of-service for ten years and has been a subject in four CCRB complaints and five allegations, one of which was substantiated:
  - In 201800251, a Force – Pepper Spray allegation was substantiated. The Board recommended Command Discipline A, and the NYPD disposition is pending.

### **Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]

---

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date